IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application No.2604 of 2007

The State of Maharashtra — Appellant
Vs.
Jaywant Dhondiram Khot & ors. — Respondents

Mr.P.A.Pol, APP for State.

CORAM: B.H.MARLAPALLE, J.

August 9, 2007.

P.C.

. Heard Mr.Pol, the learned APP. This is an application filed by the State seeking leave to appeal under Section 378(3) of Cr.P.C. so as to file an appeal against the order of acquittal passed by the learned Ad-hoc Addl. Sessions Judge at Islampur on 3/4/2007 in Sessions Case No.3 of 2006.

. The present respondents - accused were put on trial for the offences punishable under Sections 324, 504, 506 read with Section 34 of IPC. Admittedly the incident that had taken place on 21/11/2003 was a scuffle between the neighbouring agriculturists and both the parties had used sticks and fist blows against each other. The complainant - PW 2 was the main injured. The prosecution has examined PW 2, PW 3 and PW 4 as the star witnesses and on appreciation

of their testimony the learned Judge of the trial Court held that they were contradictory to each other and their evidence was inconsistent. PW 2 and PW 4 are the brothers and the FIR lodged at the instance of PW 2 at Exhibit 18 was silent about the presence of PW 2 himself at the spot at the time of the incident. Similarly the presence of PW 3 - Sanjay was also doubtful at the spot of the incident. When these three witnesses were found to be contradicting each other and there were inconsistencies in their oral depositions before the Court, the trial Court found it unsafe to base the conviction on such testimony.

. Having regards to the evidence discussed in the impugned order of acquittal and the reasoning set out therein, it is clear that the same does not call for reconsideration at the hands of this Court.

. Hence leave to appeal is hereby refused and consequently the application is rejected.

(B.H.MARL